

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

WALKME LTD., AN ISRAELI  
COMPANY, et al.,

Plaintiffs,

v.

WHATFIX, INC., A DELAWARE  
CORPORATION, et al.,

Defendants.

Case No. [23-cv-03991-JSW](#)

**ORDER GRANTING IN PART  
MOTION TO STAY DISCOVERY**

Re: Dkt. No. 116

Now before the Court for consideration is the motion to stay discovery filed by Defendants, which is scheduled for a hearing on June 7, 2024. The Court has considered the parties' papers, relevant legal authority, and the record in this case, and it finds the motion is suitable for disposition without oral argument. The Court VACATES the hearing and GRANTS the motion, in part.

On April 12, 2024, Plaintiffs filed their Second Amended Complaint. Defendants moved to dismiss Plaintiffs' claims for misappropriation of trade secrets under federal and state law, violations of the Computer Fraud and Abuse Act ("CFAA"), 18 U.S.C. section 1030(a)(2), and violations of the California Computer Data Access and Fraud Act, California Penal Code section 502 (the "Section 502 claim").

Federal Rule of Civil Procedure 26(c) provides that a court may "for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense" by, inter alia, forbidding discovery or by specifying terms, including time and place, for disclosure or discovery. Fed. R. Civ. Proc. 26(c)(1)(A)-(B). The Court has discretion to stay discovery pending the resolution of motions to dismiss. *See, e.g., Jarvis v. Regan*, 833 F.2d 149, 155 (9th Cir. 1987); *see also Wood v. McEwen*, 644 F.2d 797, 801 (9th Cir. 1981) (good cause to

1 stay discovery may exist where a court is “convinced that the plaintiff will be unable to state a  
 2 claim for relief”). “A party seeking a stay of discovery carries the heavy burden of making a  
 3 ‘strong showing’ why discovery should be denied.” *Gray v. First Winthrop Corp.*, 133 F.R.D. 39,  
 4 40 (N.D. Cal. 1990) (quoting *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975)).  
 5 “The moving party must show a particular and specific need for the protective order, as opposed to  
 6 making stereotyped or conclusory statements.” *Id.* (citations omitted).

7 In determining whether to grant a protective order to stay discovery pending resolution of  
 8 dispositive motions, the Court considers the following two factors: (1) whether the pending  
 9 motion is potentially dispositive of the entire case, or at least dispositive on the issue at which  
 10 discovery is directed; and (2) whether the pending dispositive motion can be decided absent  
 11 additional discovery. *The Pacific Lumber Co. v. National Union Fire Ins. Co. of Pittsburgh, PA*,  
 12 220 F.R.D. 349, 352 (N.D. Cal. 2003) (internal citations omitted); *see also In re Nexus 6p Prod.*  
 13 *Liab. Litig.*, No. 17-cv-2185-BLF, 2017 WL 3581188, at \*1 (N.D. Cal. Aug. 18, 2017) (citing  
 14 cases). If the two above questions are answered affirmatively, the court may issue a protective  
 15 order. *Pac. Lumber Co.*, 220 F.R.D. at 352. “However, if either prong of this test is not  
 16 established, discovery proceeds.” *Id.* There is no dispute that the motion to dismiss can be  
 17 resolved without further discovery. Therefore, Defendants satisfy the second prong of the *Pacific*  
 18 *Lumber* test.

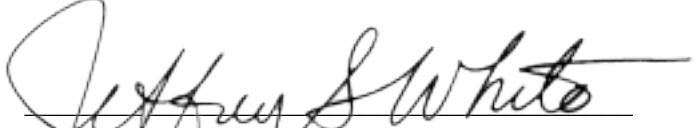
19 Turning to the first prong, Plaintiffs do not oppose staying discovery on the trade secret  
 20 claims. Accordingly, the Court GRANTS the motion to stay discovery on those claims.  
 21 Defendants also acknowledge that Plaintiffs’ claim for false advertising will proceed, and the  
 22 Court DENIES the motion to stay discovery on that claim and on the unfair competition claim but  
 23 only to the extent it is derivative of the false advertising claim.

24 The Court has taken a preliminary look at the arguments raised in Defendants’ latest  
 25 motion to dismiss the CFAA and Section 502 claims. Notwithstanding the Court’s prior order, it  
 26 concludes Defendants have shown that a ruling on the motion would be dispositive of the issues at  
 27 which discovery would be directed, and it finds good cause to stay discovery on those claims  
 28 pending a ruling on the motion to dismiss. Accordingly, the Court GRANTS the motion to stay

discovery on those two claims.

**IT IS SO ORDERED.**

Dated: May 29, 2024

  
JEFFREY S. WHITE  
United States District Judge

United States District Court  
Northern District of California